HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1338 (S/S) year 2003

Smt. Lata Shukla W/o Sri Anil Shukla

Versus

State of Uttaranchal

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 4.11.2003

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ petition No. 1338 (S/S) 2003

Smt. Lata Shukla W/o Sri Anil Shukla. ---- Petitioner

Vs.

State of Uttaranchal,
Through Secretary, Secondary Education,
Govt. of Uttaranchal and another. ---- Respondents.

Mr. Pankaj Purohit, counsel for the petitioner,
Sri P.C. Maulekhi, Learned Standing Counsel for respondent.

Judgment Dated: November 4, 2003:

Hon'ble Rajesh Tandon, J.

Heard Sri Pankaj Purohit, learned counsel for the petitioner and Sri Maulekhi, learned Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for issue of a writ, order or direction in the nature of mandamus commanding the respondents to consider the case of the petitioner for appointment as Assistant Teacher L.T. Grade Arts and to appoint her on the post extending the benefit of relaxation of having Technical Drawing as a subject at intermediate level as available to the teachers of Private Girls Colleges in L.T. Grade under the provisions of U.P. Intermediate Education, Act 1921.

Brief facts giving rise to the writ petition are that the petitioner has passed her intermediate with drawing design from the Board of High School and Intermediate Education, U.P. and graduation and post graduate with Painting from University of Allahabad. Thereafter the petitioner has obtained the degree of B.Ed. from Hemwati Nandan Bahuguna, Garhwal University, Srinagar.

Pursuant to the advertisement by the respondent No. 3 on 24th June 2002 published in daily newspaper "Amar Ujala" dated 25th June 2002, the applications were invited for recruitment on the post of Assistant Teacher L.T. Grade in different subjects including for Arts subject.

The grievance of the petitioner is that she is eligible for appointment on the post of Assistant Teacher L.T. Grade Arts and, as

such, she has submitted her application form with all testimonials with respondent No.3 within time by registered post but she has not been called either for interview or she has not been taken to be under the zone of consideration in the appointment on the post of Assistant Teacher in L.T. Grade Arts.

Counsel for the petitioner has submitted that the recruitment of the Assistant Teacher L.T. Grade is governed by the provisions of U.P. Subordinate Educational (Trained Graduate Grade) Service Rule 1983. The selection and the appointment is made on the basis of the quality points awarded to the candidates according to the Rule 15 of the Rules. Rule 15 provides as under:-

"15. Procedure for direct recruitment:- (1) (a) The regional deputy Director of Education concerned shall in respect of the vacancies of both branches (Men's and Women's Branch) to be filled by direct recruitment, advertise the vacancies subjectwise, alongwith the number of vacancies to be reserved for the candidates belonging to the Scheduled Castes/ Scheduled Tribes and other categories of persons in at least two leading newspapers, on having wide circulation in the region and the other in the State, and invite applications for direct recruitment in the pro forma given in Appendix 'C'. Such advertisement shall, inter alia, mention the pay and allowances relating to the posts, minimum academic qualifications for appointment thereto and such other information as may be considered necessary."

Sub-clause-2 further provides that the Regional Deputy Director of Education shall scrutinize the applications and shall cause the lists of candidate to be prepared on the basis of quality points. Sub-clause-2 is quoted below: -

"(2) The regional Deputy Director of Education shall scrutinize the applications and shall cause the lists of candidate to be prepared on the basis of quality points specified in Appendix D. The Regional Deputy Director of Education shall place the lists alongwith the applications before the Selection Committee."

Sub-clause-3 provides that there shall be a Selection Committee for selection of candidates for appointment by direct recruitment comprising the appointing authority, the Regional Deputy Director of Education and Regional Assistant Director of Education (Basic).

So far as the criteria for recruitment is concerned, the same is contained in appendix- (D) under Rule 15 of sub-clause. The same is quoted below: -

"Appendix 'D'
[See Rule 15 (2)]
Quality points for selection by direct recruitment

Name of Examination	Quality Points
1. High School	The Percentage of marks. / 10
2. Intermediate	The Percentage of marks x 2 / 10
3. Graduate Degree	The Percentage of marks x 4 / 10
Other:	
4. Training: I Division II Division III Division	1st IInd IIIrd. Division Division Division
(a) Theory	1263
(b) Practical	1263
5. Post-Graduate Degree	15105.]

Rule-8 provides academic qualification for direct recruitment, so far on the subject of the Arts are concerned, it is contained under clause-5, which is known as Assistant Master/Assistant Mistress Arts. The qualification has been mentioned as under:-

"[5. Assistant Master/ Assistant Mistress (Arts).	1. Intermediate Examination of Board of High School and Intermediate Education, Uttar Pradesh and any equivalent examination with Art, Masters Training Certificate (formerly known as Drawing teacher certificate) of Government School of Arts and Crafts, Lucknow or a certificate recognized as equivalent thereto. 2. Bachelor of Arts Degree from a recognized University or a degree recognized as equivalent thereto with a certificate Drawing and handicrafts Centre, Allahabad (since abolished) or a certificate recognized as equivalent thereto. Or

3. Intermediate Examination with Technical Drawing with one the following examination-

(a) Fine Arts Diploma of the Government School of Arts and Crafts, Lucknow. Or

(b) (b) Bachelor's degree in Arts with Drawing and Painting from a recognized University or a degree recognized by the Government ad equivalent thereto.

(c) Fine Arts Diploma of Kala Bhawan, Shantiniketan. Or

(d) Final Drawing Teachership Examination, Calcutta. Or

(e) Teacher Senior Certificate Examination, Mayor School of Arts, Lahore]."

Learned counsel for the petitioner has made his submission that is non-Govt. recognized Higher Secondary School, in respect of the Art Teacher, qualification has been given in the Appendix-A appended to the regulation-II of U.P. Intermediate Education Act 1921 and the same is quoted below:-

"(1) Art Masters Training Certificate (Formely) known as Drawing Teachers Training Certificate) of Government Art and Craft College, Lucknow. Or

(2) Intermediate passed with Technical Art from U.P. Board of Intermediate Education. Or

(3) High School Examination passed with Technical Art and any of the following qualifications:

(a) B.A. with Drawing or painting. Or

(b) Fine Art Diploma of Kala Bhawan, Shantiniketan or

(c) Certificate or Government Drawing and Handicraft Centre, Allahabad. Or

(d) Final Drawing Teachership Examination, Calcutta or

(e) Teachers Senior Certificate Examination of Mayo School of Arts, Lahore or

(f) Intermediate Grade Examination of Bombay or

(g) Third Grade Arts School Examination, Bombay.

Note-(1) Under (2) above passing of Intermediate examination is compulsory for all. But when there is no proof available of taking of

Technical Art in that examination then in lieu of that proof of knowledge of Technical Art of that level may be accepted. For girls institutions teachers may be exempted from Technical Art qualification.

(2) Under (3) above High School pass will be compulsory for all. But when there is no proof available of taking Technical Art in that examination, then proof of knowledge of that level may be accepted in lieu of that. For girls' institutions teachers may be exempted from qualification of Technical Art."

Counsel for the petitioner, therefore, has submitted that since there is a relaxation in respect of non Government Girls institutions for having the technical Drawing as a subject in Intermediate level, the same may also be extended in favour of the petitioner. The petitioner has also submitted that she has obtained the bachelor in Arts with Drawing and Painting from Allahabad University and this should be sufficient for consideration of her candidature for the post of Assistant Teacher L.T. Grade Arts (women branch) if the benefit of relaxation is extended to the petitioner.

The petitioner bas already made a representation dated 10.07.2003 (annexure-4 to the writ petition) inviting attention of Joint Director of Education.

The Joint Director of Education shall consider the representation of the petitioner and decide it in accordance with the Rules and Regulations as to whether the petitioner qualifies for the post of Assistant Teacher L.T. Grade Arts in accordance with the eligibility criteria contained under the U.P. Sub Educational (Graduates) Service Rules 1983. The Joint Director of Education shall decide the representation of the petitioner within four weeks from the dated of filing of certified copy of this order.

It is made clear that the consideration will arise only if the petitioner is qualified as contained under the U.P. Sub Educational (Graduates) Service Rules.

The Authorities concerned shall also consider as to whether any relaxation can be extended in favour of the petitioner as contained in

Appendix-A of Regulation-II of U.P. Intermediate Education Act 1921 for appointment of teacher in non-Govt. recognized Higher Secondary Schools.

Subject to the aforesaid observations, writ petition is disposed of.

(Rajesh Tandon, J.)

NCM: